IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-11-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.16482 of 1999

S.K.Jayaraman .. Petitioner

Versus

The Deputy Commissioner (Town)
South Office, Food Supplies,
and Consumer Protection Department,
Chepauk, Chennai-5 .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified Mandamus to call for the records of the respondent in his proceedings No.S-1/1725/99, dated 5.7.1999 and quash the same only with respect to the order of confiscation of the Security deposit of Rs.8,000/- and direct the respondent to repay the said amount of Rs.8,000/-.

For petitioner : Mr.M.Liagat Ali

For respondents : Mr.V.Manoharan
Government Advocate

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O R D E R

Heard Mr.M.Liagat Ali, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondent.

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2. It is submitted by the learned counsel appearing for the petitioner that 28 bags of rice as well as the petitioner's Mini Lorry had been seized, on 25.3.1999, under Section 6-A of the Essential Commodities Act, 1955, alleging that the goods had been loaded with ulterior motive to carry on illicit business.

3. The main contention of the petitioner is that the allegations made by the respondent are false and it is for the respondent to substantiate them with sufficient proof.

4. It is submitted by the learned counsel appearing on behalf of the respondent that as against the impugned order passed by the respondent, a statutory appeal is available to the petitioner, under Section 6-C of the Essential Commodities Act, 1955. Section 6-C of the Essential Commodities Act, 1955, reads as follows:

> 6-C.Appeal.- (1) Any person aggrieved by an order of confiscation under Section 6-A may, within one month from the date of the communication to him of such order, appeal to the State Government concerned and the State Government shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.
>
> (2) Where an order under Section 6-A is modified or annulled by the State Government, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under Section 6-A, the person concerned is acquitted, and in either case it is not possible for any reason to return the essential commodity seized, such persons shall, except as provided by sub-section (3) of section 6-A, be paid the price therefor as if the essential commodity had been sold to the Government with reasonable interest calculated from the day of the seizure of the essential commodity and such price shall be determined -
>
> (i) in the case of food grains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (3-B) of section 3;
>
> (ii) in the case of sugar, in accordance with the provisions of sub-section (3-C) of section3 ; and
>
> (iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3.

5. However, the learned counsel appearing for the petitioner had submitted that at the time of the filing of the writ petition, the appellate authority had not been designated, as provided under the Act.

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Therefore, the petitioner has come before this Court, by way of filing the present writ petition, under Article 226 of the Constitution of India. It is submitted that at present the concerned District Courts have been designated as the appellate forum, under Section 6-C of the Essential Commodities Act, 1955, to hear and decide the appeals.

6. Considering the facts and circumstances of the case, the petitioner is granted liberty to file an appeal before the designated appellate authority, as provided under the law, within a period of four weeks from the date of receipt of a copy of this order. On such appeal being filed, the appellate authority is expected to dispose of the same, expeditiously.

The writ petition is disposed of with the above direction. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Deputy Commissioner (Town)
South Office, Food Supplies,
and Consumer Protection Department,
Chepauk, Chennai-5

RA(CO)
DCP/26.12

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